

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Market Entry and Regulation of) IB Docket No. 95-22
Foreign-Affiliated Entities) RM-8355
) RM-8392

To: The Commission

COMMENTS OF ORION ATLANTIC

International Private Satellite Partners, L.P. ("Orion Atlantic") hereby files its comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding released February 17, 1995.^{1/} In support, the following is shown.

1. Orion Atlantic is a Delaware limited Partnership which holds a license granted by the Commission to operate an international communications satellite system with a satellite operating in the Ku Band located at 37.5 degrees West Longitude. The license was originally granted to Orion Atlantic's general partner, Orion Satellite Corporation, pursuant to the Commission's Separate Systems Decision,^{2/} and was assigned to

1/ The deadline for comments in this proceeding was extended until April 11, 1995, by Public Notice released March 15, 1995.

2/ Report and Order on the Establishment of Satellite Systems Providing International Communications, CC Docket No. 84-1299, 101 FCC 2d 1046 (1985), (Separate Systems Decision); Memorandum Opinion and Order on Reconsideration, FCC 86-144, 61 RR 2d 649, released April 17, 1986; Memorandum Opinion and Order on Further Reconsideration, 1 FCC Rcd 439 (1986); Orion Satellite Corp., 6 FCC Rcd 4201 (1991).

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Orion Atlantic prior to launch and operation of the satellite.^{3/} Orion Atlantic's satellite was successfully launched in November, 1994, and placed into operation in January, 1995.

2. For the reasons described below, Orion Atlantic has a significant interest in this proceeding, and fully supports the Commission's position that the current rules and policies governing foreign participation in separate satellite systems should not be changed.^{4/}

3. In March, 1983, Orion Atlantic's general partner, Orion Satellite Corporation, became the first company ever to seek FCC authority to provide international communications satellite service separate from the Intelsat system. Two years later, the FCC issued its landmark Separate Systems Decision, 101 FCC 2d 1046 (1985), which authorized the provision of international satellite communications by U.S. companies other than Comsat. In its Separate Systems Decision, the FCC made a specific finding that "separate systems operators are not to operate as common carriers," and concluded that "[S]ince separate satellite system operators will not be common carriers, Section 310(b) of the Communications Act will not apply." Separate Satellite Systems, supra, 101 FCC 2d at 1050, 1164. Later, in the course of authorizing the Orion Atlantic system, the FCC noted that "the Commission has explicitly held that the foreign ownership

^{3/} FCC File No. CSS-93-006-(AL); Orion Satellite Corp., 9 FCC Rcd 2148 (1994).

^{4/} Notice of Proposed Rulemaking at paras. 80 and 83.

restrictions embodied in Section 310(b) of the Communications Act do not apply to non-common carrier systems such as the one proposed by Orion." Orion Satellite Corp., 5 FCC Rcd 4937, 4940 (1990).

4. Orion Atlantic has structured its business in reliance on the Commission's findings that separate satellite systems will be treated as private carriers, not common carriers, and that the foreign ownership restrictions of Section 310(b) would not apply. Six of the eight limited partners in Orion Atlantic are foreign-owned entities, representing over 60% of the partnership equity, and representing interests in the United Kingdom, France, Italy, Canada and Japan. Orion Atlantic's ownership was deliberately structured to include significant equity participation by entities from key foreign countries in reliance on the FCC's determination that the foreign ownership restrictions of Section 310(b) were not applicable.

5. The Commission found in 1990 that there were three concrete public interest benefits to be derived from foreign investment in Orion Atlantic's separate satellite system: (1) it would aid in the acquisition of necessary equity capital in return for foreign equity ownership interests; (2) it would help gain commercially successful entry into key markets; and (3) it recognizes that foreign participation in the ownership of international transmission facilities is the norm, rather than the exception. Orion Satellite Corporation, 5 FCC Rcd 4937, 4940 (1990).

6. If anything, those three public interest benefits are even more concrete and relevant today than they were five years ago. Communications systems generally have become increasingly global in nature, creating a corresponding increase in the need for access to foreign capital and foreign markets. Accordingly, Orion Atlantic supports the Commission's determination that the policies governing foreign participation in international separate satellite systems should not be changed.

Respectfully submitted,

INTERNATIONAL PRIVATE SATELLITE
PARTNERS, L.P. d/b/a ORION ATLANTIC

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Dated: April 11, 1995

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 11th day of April, 1995, caused copies of the forgoing "Comments of Orion Atlantic" to be served by first class mail, postage prepaid to the following:

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